

91st Legislative Session – 2016

Committee: House State Affairs

Wednesday, February 10, 2016

P - Present
E - Excused
A - Absent

Roll Call

P Bartling
P Bolin
P Haggar (Don)
P Hawley
P Langer
P Mickelson
P Munsterman
P Solum
P Stevens
P Verchio
P Wink
P Westra, Vice-Chair
P Gosch, Chair

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Chairman, Representative Gosch.

MOTION: TO APPROVE THE MINUTES OF MONDAY, FEBRUARY 8, 2016

Moved by: Westra
Second by: Mickelson
Action: Prevailed by voice vote.

HB 1214: regulate conflicts of interest for authority, board, or commission members.

Presented by: Representative Mickelson

MOTION: AMEND HB 1214

1214sa

On page 2, line 14, of the printed bill, after "." insert: "A member of an authority, board, or commission does not have an interest in a contract nor does the member receive a direct benefit by participating in a vote or a decision where the member's only interest is the effect of an act of general application."

On page 3, line 8, after "." insert: "A member of an authority, board, or commission may comply with this section if: the authority, board, or commission puts on its regular meeting agenda an inquiry for conflicts disclosure prior to the consideration of any substantive matters; the member publicly discloses his or her interest in a contract, direct benefits, or other conflict with any matter on the agenda; the member is excused from discussion and consideration of the matter; the board determines the matter underlying the conflict is fair, reasonable, and not contrary to the public interest; and the disclosure is included in the minutes which are publicly available."

On page 5, line 18, after "." insert: "A board member, fiscal agent, officer, or executive of a local service agency, school district, cooperative education service unit, education service agency, nonprofit education service agency, or jointly governed education service entity may comply with this section if: the local service agency, school district, cooperative education service unit, education service agency, nonprofit education service agency, or jointly governed education service entity puts on its regular meeting agenda an inquiry for conflicts disclosure prior to the consideration of any substantive matters; the person subject to this Act publicly discloses his or her interest in a contract, direct benefit, or other conflict with any matter on the agenda; the person is excused from discussion and consideration of such matters; the board determines the matter underlying the conflict is fair, reasonable, and not contrary to the public interest; and the disclosure is included in the minutes which are publicly available. "

On page 7, line 1, after "Council" insert ";

(22) South Dakota Railroad Authority; and

(23) Board of Water Management".

Moved by: Solum
Second by: Wink
Action: Prevailed by voice vote.

MOTION: DO PASS HB 1214 AS AMENDED

Moved by: Solum
Second by: Langer

Action: Prevailed by roll call vote. (13-0-0-0)

Voting Yes: Bartling, Bolin, Haggar (Don), Hawley, Langer, Mickelson, Munsterman, Solum, Stevens, Verchio, Wink, Westra, Gosch

HCR 1010: Calling for a policy to provide a full and fair resolution of the claims to the Black Hills by the Sioux Nation tribes.

Presented by: Representative Bordeaux

MOTION: DEFER HCR 1010 TO THE 41ST LEGISLATIVE DAY

Moved by: Stevens

Second by: Solum

Action: Prevailed by roll call vote. (13-0-0-0)

Voting Yes: Bartling, Bolin, Haggar (Don), Hawley, Langer, Mickelson, Munsterman, Solum, Stevens, Verchio, Wink, Westra, Gosch

HB 1155: prohibit a state board member from self-dealing in certain contracts with the state.

Presented by: Representative Hawks

Proponents: Senator Parsley

MOTION: DEFER HB 1155 TO THE 41ST LEGISLATIVE DAY

Moved by: Solum

Second by: Haggar (Don)

Action: Prevailed by roll call vote. (11-2-0-0)

Voting Yes: Bolin, Haggar (Don), Langer, Mickelson, Munsterman, Solum, Stevens, Verchio, Wink, Westra, Gosch

Voting No: Bartling, Hawley

HB 1163: revise the periods of time during which veterans may use tuition benefits at institutions under the control of the Board of Regents.

Presented by: Representative Zikmund

Proponents: Senator Van Gerpen

Larry Zimmerman, Department of Veteran Affairs

Royce Loesch, The American Legion Department of South Dakota

MOTION: DO PASS HB 1163

Moved by: Solum
Second by: Westra
Action: Prevailed by roll call vote. (13-0-0-0)

Voting Yes: Bartling, Bolin, Haggar (Don), Hawley, Langer, Mickelson, Munsterman, Solum, Stevens, Verchio, Wink, Westra, Gosch

MOTION: PLACE HB 1163 ON CONSENT CALENDAR

Moved by: Bolin
Second by: Stevens
Action: Prevailed by voice vote.

HB 1190: enhance customer convenience in firearms transactions, improve public safety, and provide for the issuance of an additional concealed pistol permit.

Presented by: Representative Mickelson
Proponents: Matthew Mccauley, SD Fire Arms Association (Handout: 1)
Eric Matt, SD Fire Arms Association
Staci Ackerman, South Dakota Sheriffs Association

MOTION: AMEND HB 1190

1190ya

On the printed bill, delete everything after the enacting clause and insert:

" Section 1. That § 23-7-8 be amended to read:

23-7-8. The application for a permit to carry a concealed pistol ~~or an~~, enhanced permit to carry a concealed pistol, or a gold card permit to carry a concealed pistol shall be filed either electronically or in triplicate on a form prescribed by the secretary of state. The application shall require the applicant's complete name, address, occupation, place and date of birth, country of citizenship, physical description, a statement that the applicant has never pled guilty to, nolo contendere to, or been convicted of a crime of violence, a sworn statement that the information on the application is true and correct, and the applicant's signature. If the applicant is not a United States citizen, the application shall require any alien or admission number issued by the United States Bureau of Immigration and Customs Enforcement. If filed in triplicate, the original shall be delivered to the applicant as the temporary permit, the duplicate shall within seven days be sent by first class mail to the secretary of state who shall issue the official permit, and the triplicate shall be preserved for

~~four~~ five years by the authority issuing the permit. If the application is filed electronically, two copies shall be made and each shall be signed by the applicant. One copy shall be delivered to the applicant as the temporary permit, and the other copy shall be preserved for ~~four~~ five years by the authority issuing the permit.

Section 2. That § 23-7-8.1 be amended to read:

23-7-8.1. The secretary of state shall prescribe the form of the permit to carry a concealed pistol ~~and, the form of the enhanced permit to carry a concealed pistol, and the form of the gold card permit to carry a concealed pistol~~ pursuant to § 23-7-8. Each permit shall list the applicant's name, address, ~~and the expiration date, and the issuance date~~ of the permit. The enhanced permit to carry a concealed pistol must clearly designate that the permit is enhanced ~~and the gold card permit must clearly designate that it is a gold card permit to carry a concealed pistol~~. The holder of a permit may carry a concealed pistol anywhere in South Dakota except in any licensed on-sale malt beverage or alcoholic beverage establishment that derives over one-half of its total income from the sale of malt or alcoholic beverages. Nothing in this section prevents law enforcement officers, parole agents, security guards employed on the premises, and other public officials with the written permission of the sheriff from carrying concealed weapons in the performance of their duties or prevents home or business owners from carrying concealed weapons on their property pursuant to § 22-14-11.

Section 3. That § 23-7-54 be amended to read:

23-7-54. The sheriff shall retain the application and other documents until the sheriff receives the results of the background checks required pursuant to § 23-7-53. Within seven days following receipt of a confirmation that the applicant passed each criminal background check required pursuant to this section and § 23-7-53, the sheriff shall file the application with the secretary of state pursuant to § 23-7-8.

If the applicant submits an application pursuant to § 23-7-53, meets the requirements of § 23-7-7.1, is not otherwise prohibited by state law, 18 U.S.C. 922(g) as amended to October 26, 2005, or 18 U.S.C. 922(n) as amended to October 26, 2005, from receiving, possessing, or transporting a firearm, passes the required fingerprint background check, and passes a National Instant Criminal Background Check, the sheriff of the county where the applicant submitted the application shall, within thirty days of application, issue the applicant a temporary enhanced permit to carry a concealed pistol. The temporary permit must clearly designate that the permit is enhanced.

Section 4. That § 23-7-57 be amended to read:

23-7-57. Unless otherwise specified, the references, rights, and responsibilities in this chapter related to a permit to carry a concealed pistol also apply to an enhanced permit to carry a concealed pistol and a gold card permit to carry a concealed pistol.

Section 5. That § 25-10-24 be amended to read:

25-10-24. The court may require the defendant to surrender any dangerous weapon or any concealed pistol permit issued under 23-7 in his the defendant's possession to local law enforcement.

Section 6. That § 23-7-8.9 be amended to read:

23-7-8.9. The provisions of §§ 23-7-8.6 to 23-7-8.9, inclusive, do specifically prohibit any law enforcement officer from retaining any notes, data, or pieces of information, either collectively or individually, unless the retention of such notes, data, or pieces of information is pertinent to a specific ongoing investigation or prosecution. Access by law enforcement to information necessary to perform a periodic National Instant Criminal Background Check of gold card or enhanced pistol permit holders under section 15 of this Act is authorized.

Section 7. That chapter 23-7 be amended by adding a NEW SECTION to read:

An applicant may submit an application to the sheriff of the county in which the applicant resides for a gold card permit to carry a concealed pistol. The application shall include:

- (1) The application for the gold card permit to carry a concealed pistol;
- (2) A copy of the applicant's fingerprints for submission to the Federal Bureau of Investigation, and any governmental agency or entity authorized to receive such information, for a state, national, and international criminal history background check;
- (3) An authorization to run a fingerprint background check;
- (4) A separate payment for the cost of processing the fingerprint background check; and
- (5) A separate application fee of sixty dollars for the gold card permit to carry a concealed pistol which shall be distributed fifty percent to the sheriff and fifty percent to the secretary of state to be used by the secretary of state to administer the concealed carry program.

The sheriff shall forward the copy of the applicant's fingerprints, the applicant's authorization for processing a fingerprint background check, and the payment for the fingerprint background check to the Division of Criminal Investigation for processing.

Section 8. That chapter 23-7 be amended by adding a NEW SECTION to read:

The sheriff shall retain the application and other documents until the sheriff receives the results of the background checks required pursuant to section 7 of this Act. Within seven days following receipt of a confirmation that the applicant passed each criminal background check required pursuant to this section and section 7 of this Act, the sheriff shall file the application with the secretary of state pursuant to § 23-7-8.

If the applicant submits an application pursuant to section 1 of this Act, meets the requirements of § 23-7-7.1, is not otherwise prohibited by state law, 18 U.S.C. 922(g) as amended to October 26, 2005, or 18 U.S.C. 922(n) as amended to October 26, 2005, from receiving, possessing, or transporting a firearm, passes the required fingerprint background check, and passes a National Instant Criminal Background Check, the sheriff of the county of the application shall, within thirty days of application, issue the applicant a temporary gold card permit to carry a concealed pistol. The temporary permit must clearly designate that the permit is a gold card permit.

Section 9. That chapter 23-7 be amended by adding a NEW SECTION to read:

The holder of the gold card permit to carry a concealed pistol may renew the permit through the sheriff of the county where the holder resides, no earlier than ninety days prior to the expiration of the permit. The holder shall pay a thirty dollar renewal fee and pass a National Instant Criminal Background Check. The renewal fee shall be distributed fifty percent to the sheriff and fifty percent to the secretary of state to be used by the secretary of state to administer the concealed carry program.

Section 10. That chapter 23-7 be amended by adding a NEW SECTION to read:

The gold card permit to carry a concealed pistol is valid for a period of five years from the date of issuance.

Section 11. That chapter 23-7 be amended by adding a NEW SECTION to read:

A gold card permit to carry a concealed pistol or an enhanced permit to carry a concealed pistol is automatically revoked upon failure to maintain the requirements under § 23-7-7.1 or if the gold card or enhanced permit holder becomes prohibited by state law, 18 U.S.C. 922(g) as amended to October 26, 2005, or 18 U.S.C. 922(n) as amended to October 26, 2005, from receiving, possessing, or transporting a firearm.

Upon such occurrence, the permit holder shall immediately return the gold card or enhanced concealed pistol permit to the county sheriff of the permit holder's county of residence. A county sheriff, judge, or state's attorney, upon learning that a permit holder is ineligible for a gold card or enhanced permit, shall send notice to the permit holder that the permit has been revoked, the reason for the revocation, the right of the permit holder to appeal, and that the permit holder must return the gold card or enhanced permit to the county sheriff of the permit holder's county of residence. Notice shall also be provided to the secretary of state and the county sheriff in the permit holder's county of residence.

The revocation of a gold card or enhanced concealed pistol permit may be appealed pursuant to chapter 1-26.

Section 12. That chapter 23-7 be amended by adding a NEW SECTION to read:

It is a Class 2 misdemeanor for anyone that is ineligible to possess a gold card or enhanced concealed pistol permit to possess or present a revoked gold card or enhanced concealed pistol permit.

Section 13. That chapter 23-7 be amended by adding a NEW SECTION to read:

If any person is convicted of any offense which results in the automatic revocation of a gold card or enhanced permit to carry a concealed pistol under this chapter, the court entering the conviction shall require the surrender to the court of all gold card or enhanced concealed pistol permits held by the person convicted. The court shall forward all gold card and enhanced concealed pistol permits to the sheriff of the defendant's county of residence.

Section 14. That chapter 23-7 be amended by adding a NEW SECTION to read:

It is a Class 2 misdemeanor for a person to fail or refuse to surrender to the county sheriff of the person's county of residence, upon lawful demand, a gold card or enhanced permit to carry a concealed pistol that has been revoked. If a person fails to return a gold card or enhanced permit to the sheriff of the person's county of residence after lawful demand, the sheriff may direct a law enforcement officer to secure its possession and return. The law enforcement officer shall receive ten dollars and fifty cents plus mileage, at a rate established by the State Board of Finance, to be paid by the violator. Failure to pay the fee and mileage is a Class 2 misdemeanor.

Section 15. That chapter 23-7 be amended by adding a NEW SECTION to read:

Law enforcement may periodically perform a National Instant Criminal Background Check of gold card or enhanced concealed pistol permit holders for the purposes of determining whether the permit holder remains eligible for the permit under § 23-7-7.1, 18 U.S.C. 922(g) as amended to October 26, 2005, and 18 U.S.C. 922(n) as amended to October 26, 2005.

Section 16. The Act is effective January 1, 2017."

Moved by: Westra
Second by: Haggar (Don)
Action: Prevailed by voice vote.

THE CHAIR DEFERRED HB 1190

MOTION: ADJOURN

Moved by: Westra
Second by: Mickelson

Action: Prevailed by voice vote.

Colleen Hunt
Committee Secretary

Brian G. Gosch, Chair